

Draft Explanatory Statement

Issued by the Authority of the Minister for Communications, Urban Infrastructure, Cities and the Arts

Telecommunications Act 1997

Telecommunications (Fibre-ready Facilities — Exempt Real Estate Development Projects) Amendment Instrument 2021

Authority

This instrument is made under paragraphs 372K(1)(b), (c), (d), (e) and (f) of the *Telecommunications Act 1997* (the Act).

Purpose

The purpose of the Telecommunications (Fibre-ready Facilities — Exempt Real Estate Development Projects) Amendment Instrument 2021 (the Amendment Instrument) is to amend the Telecommunications (Fibre-ready Facilities — Exempt Real Estate Development Projects) Instrument 2021 (the Original Instrument) so that the Original Instrument will sunset on 1 January 2024, three years after commencement.

Background

The Original Instrument was made in January 2021. It replaced an earlier version of the instrument that was made in 2016 and expired at the end of 2020. The Original Instrument sunsets on 1 April 2031, in accordance with subsection 50(1) of the *Legislation Act 2003*.

The Instrument was subsequently reviewed by the Senate Standing Committee for the Scrutiny of Delegated Legislation (the Committee). The Committee recommended that the Original Instrument sunset three years after commencement and consideration be given to including the exemptions contained in the Original Instrument in the Act. The Amendment Instrument implements the Committee's recommendation.

The Government will consult on including the exemptions in the Original Instrument into Part 20A of the Act before the end of the new sunset period.

Consultation

A draft of the Amendment Instrument was published on the website of the Department of Infrastructure, Transport, Regional Development and Communications (the Department), with submissions invited from interested parties. The Department also provided copies directly to key stakeholders including developer organisations, industry representatives, consumer groups and network providers operating in the new developments market.

Regulatory Impact Statement

Details of the accompanying instrument

The Amendment Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*. Details of the accompanying instrument are set out in [Attachment A](#).

Statement of compatibility with human rights

A statement of compatibility with human rights or the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out [Attachment B](#).

Details of the Telecommunications (Fibre-ready Facilities — Exempt Real Estate Development Projects) Amendment Instrument 2021

Section 1 – Name of Instrument

Section 1 provides that the title of the Amendment Instrument is the Telecommunications (Fibre-ready Facilities — Exempt Real Estate Development Projects) Amendment Instrument 2021.

Section 2 – Commencement

Section 2 provides that the Amendment Instrument commences on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

Section 3 provides that the Amendment Instrument is made under paragraphs 372K(1)(b), (c), (d), (e) and (f) of the *Telecommunications Act 1997*.

Section 4 – Schedules

Section 4 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendment

Clause 1 After section 5

Clause 1 of Schedule 1 of the Amendment Instrument inserts a new section 6 into the Original Instrument. The effect of the new section 6 is that the Original Instrument will be repealed on the day after the end of the period of 3 years beginning on the day the Original Instrument commenced. The new sunset date for the Original Instrument is therefore 1 January 2024.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the
Human Rights (Parliamentary Scrutiny) Act 2011

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The Government will consult on including the exemptions in the Original Instrument into Part 20A of the Act before the end of the new sunset period.

No human rights issues were raised during consultation on the proposed Amendment Instrument.

Human rights implications

The Amendment Instrument does not engage any of the applicable rights or freedoms.

Conclusion

The Amendment Instrument is compatible with human rights as it does not raise any human rights issues.